

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Improving Public Safety Communications)	WT Docket No. 02-55
in the 800 MHz Band)	
)	
Consolidating the 800 and 900 MHz Industrial/)	
Land Transportation and Business Pool Channels)	
)	
Amendment of Part 2 of the Commission's Rules)	ET Docket No. 00-258
to Allocate Spectrum below 3 GHz for Mobile)	
and Fixed Services to Support the Introduction of)	
New Advanced Wireless Services, including)	WAIVER REQUEST
Third Generation Wireless Systems)	EXPEDITED HANDLING
)	REQUESTED!
)	
Petition for Rule Making of the Wireless)	RM-9498
Information Networks Forum Concerning the)	
Unlicensed Personal Communications Service)	
)	
Petition for Rule Making of UT Starcom, Inc.,)	RM-10024
Concerning the Unlicensed Personal)	
Communications Service)	
)	
Amendment of Section 2.106 of the Commission's)	ET Docket No. 95-18
Rules to Allocate Spectrum at 2 GHz for Use by)	
the Mobile Satellite Service)	

To: The Commission

**REPLY TO OPPOSITION OF SPRINT NEXTEL CORPORATION
TO PETITION FOR PARTIAL WAIVER OF REBANDING RULES**

David J. Kaufman
Brown Nietert & Kaufman, Chartered
1301 Connecticut Ave. NW, Suite 450
Washington, DC 20036
(202)-887-0600

February 10, 2006

SUMMARY

MRA is virtually identically situated to the various not-yet-ESMR EA licensees that were afforded partial relief by the *Memorandum Opinion and Order*, released October 5, 2005 in the captioned proceeding, 20 FCC Rcd. 16015, ¶27 (2005) (“*2005 Recon Order*”), and should be treated the same as those similarly situated licensees are treated under that decision. MRA has the desire and capacity to convert to high-density cellular architecture, although it would not be able to do so in the very short remaining time frame within which it must relocate out of the lower portion of the band. MRA’s Waiver Request is not repetitive, because until the Commission afforded partial relief to the not-yet-ESMR EA licensees, MRA hardly could have requested to have the same treatment as they are now receiving. MRA filed the Waiver Request less than a month after publication of the *2005 Recon Order* in the *Federal Register*.

The Commission should reject Nextel’s false character attacks against MRA and ignore Nextel’s intentional false statements of fact (such as the intentional false statement that MRA’s site-based licenses do not cover the City and County of Denver). The Commission should find that MRA has met the standard for grant of a waiver as set forth in Section 1.925 of the Rules, and grant the Waiver Request.

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To: The Commission

**REPLY TO OPPOSITION OF SPRINT NEXTEL CORPORATION
TO PETITION FOR PARTIAL WAIVER OF REBANDING RULES**

Mobile Relay Associates ("MRA"), by its attorney and pursuant to Section 1.45 of the Commission's Rules, hereby submits this Reply to the February 3, 2006 Opposition of Sprint Nextel Corporation to Petition for Partial Waiver of the Rebanding Rules ("Opposition"), filed by Sprint Nextel Corporation ("Nextel") in response to MRA's January 24, 2006 Petition for Partial Waiver of

Rebanding Rules (“Waiver Request”). The Nextel Opposition continues Nextel’s pattern of litigation through character assassination and intentional falsehoods, and is without merit. MRA shall rebut Nextel’s claims herein, point-by-point.

I. The Merits of the Waiver Request Have Not Been Litigated Before

Nextel Opposition claims that the Waiver Request is a “collateral attack” on the Commission’s various orders in the captioned proceeding (p.1), that the Waiver Request is a “repetitive, frivolous pleading[.]” which constitutes “an abuse of the Commission’s processes” (p.2), thereby openly attacking MRA’s character qualifications. However, the Waiver Request is neither a collateral attack on the Commission’s orders herein, nor a repetitive filing, and since it is neither of these things, it is neither frivolous nor “an abuse”.

All of MRA’s prior pleadings sought to afford *all* SMRs the right to elect to relocate into the new ESMR Band at 862-869 MHz, on the ground that all SMRs possessed the right to convert to high-density cellular architecture prior to the commencement of this proceeding. In contrast, the Waiver Request assumes, *arguendo*, that the Commission’s prior orders in this proceeding are correct and that all SMRs should not automatically have the right to elect to relocate into the ESMR Band.¹

¹Indeed, as discussed in Part II, *infra*, MRA relies primarily on the public interest findings the Commission made in its *Memorandum Opinion and Order*, released October 5, 2005 in the captioned proceeding, 20 FCC Rcd. 16015, ¶27 (2005) (“*2005 Recon Order*”). Therein, the Commission found that licensees with the capacity and desire to convert to ESMR should be allowed to relocate into the ESMR Band, and, equating such capacity and desire with the holding of EA licenses, allowed all such licensees the opportunity to relocate on the same terms and conditions which MRA is requesting.

Seeking the same treatment as these other, not-yet-ESMR licensees, MRA manifestly could not have filed the instant Waiver Request unless and until the FCC ruled that the public interest requires such treatment of those other licensees, a ruling contained only in the *2005 Recon Order*. MRA filed the Waiver Request promptly, only 25 days after publication of the *2005 Recon Order* in the *Federal Register*.

The Waiver Request argues, *passim*, that due to MRA's unique situation of having such a large site-based channel capacity and such a large population coverage footprint in the Denver EA, MRA has the attributes of a typical EA-based licensee, not a typical site-based licensee, and, as noted by Commission counsel during the February 3, 2006 oral argument in Case No. 04-1413 ("Court Case") (which Court Case was referenced by Nextel, Opposition, p.2), waiver may be an appropriate way to move MRA onto the other side of the line between those who should be allowed to relocate and those who should not.

Patently, the specific issue raised by the Waiver Request has not been raised in any prior pleading filed by MRA, has not been ruled upon by the Commission, and is neither a collateral attack on any Commission order nor repetitive.

II. MRA's Request Is Consistent with the Public Interest

The Nextel Opposition claims, pp.2-3, that the Waiver Request is inconsistent with the public interest, because MRA is not yet deploying cellular architecture and because MRA is supposedly engaged in "litigation posturing" (more character assassination), as opposed to having a legitimate business plan. However, as MRA explained in the Waiver Request, as well as in its earlier pleadings in this proceeding, it specifically acquired 800 MHz SMR spectrum, as opposed to other, less expensive spectrum available for use as non-cellular fleet dispatch but not convertible to cellular, precisely because it needed the cellular-capable spectrum.²

²See Waiver Request, pp.4-5. See also, e.g., Mobile Relay Associates Comments on "Supplemental Consensus Plan" filed February 10, 2003 at p.8:

MRA and the other incumbent non-Nextel licensees in the 851-854 MHz band, both those holding site-specific licenses and those holding EA auction licenses, acquired (or declined to divest) this spectrum precisely because this Commission said the 851-854 MHz band was perfect for cellularized operations, now or in the future. *MRA and the*

Rather than attempting to rebut MRA's factual assertion that MRA's site-based spectrum position is as large as "many (if not most) non-Nextel/non-Southern Linc EA licensees hold in any one geographic area" (Waiver Request, p.2), Nextel chides MRA for "offer[ing] no specifics and no supporting declaration . . ." Nextel Opposition, p.3. However, since MRA listed all of its call signs in the Waiver Request, the Commission could take official notice of its own licensing records. Although Nextel's attack is vague, to the extent Nextel is challenging MRA's assertion that its licenses cover the vast bulk of the population of the Denver EA, including the Denver metropolitan area, MRA is attaching to this Reply as Exhibit A a copy of the Declaration of Mark J. Abrams (and the 40 dBu coverage maps that were attached to that declaration) that was filed in this proceeding back on December 7, 2004, as an attachment to MRA's reply to Nextel's opposition to MRA's stay request to the Commission.³ Those maps document that MRA covers the vast bulk of the population of the Denver EA with its site-based licenses.⁴

To the extent Nextel is challenging MRA's claim that its spectrum holdings are as large as many

other non-Nextel incumbents relied specifically upon this Commission's decision to make the 851-854 MHz band especially hospitable for cellularized SMR operations. [Emphasis added; footnote omitted.]

Patently, notwithstanding Nextel's continued false accusations, both in its Opposition, p.3, and before the court at oral argument, that MRA's desire to convert to ESMR is of "recent" vintage, MRA has been stating its desire and need to make the conversion to ESMR all along.

³As MRA is setting forth more detail about its business plans in Section III.B, *infra*, MRA is also attaching hereto as Exhibit B the declaration of Mark J. Abrams, a general partner of MRA, affirming all of the facts set forth in this Reply not already subject to official notice.

⁴Incredibly, despite Nextel having been served with the December, 2004 Abrams declaration and accompanying 40 dBu contour maps at the time they were filed with the Commission, the Nextel Opposition, p.6, re-asserts the material false statement to which the Abrams declaration and the maps were responding, *i.e.*, "Most if not all of [MRA's] licenses are outside the core population center in [the Denver EA] . . ." Even a cursory review of those maps proves this statement false.

of the not-yet-ESMR EA-based licensees, MRA hereby attaches, as Exhibit C hereto, copies of the relevant exhibits from earlier filings in this proceeding from Airpeak/Airtel, Preferred, and Coastal/ARC, to document the holdings of those licensees and allow the Commission to judge for itself from the material already of record herein. (Because Coastal/ARC filed separate exhibits with its site-based spectrum and its EA spectrum, MRA is also including a page showing Coastal/ARC's combined spectrum in each EA, for the Commission's convenience.)⁵

The remainder of Nextel's "public interest" discussion appears to be a rehash of its arguments in its pending petition for reconsideration of the *2005 Recon Order*. In essence, Nextel is arguing that the not-yet-ESMR EA licensees should not have received the relief the Commission gave them in the *2005 Recon Order*, and therefore that MRA should not receive such relief either. For all of the reasons set forth by the Commission in that decision, at ¶¶24-28, Nextel's argument is without merit, both as to the not-yet-ESMR EA licensees and as to MRA.

III. MRA's Proposed Timing for Conversion Is Reasonable and Consistent with the *2005 Recon Order*

Nextel also attacks MRA for proposing, in the Waiver Request, that MRA have the same deadline for completion of conversion to cellular architecture as the Commission established for the similarly-situated not-yet-ESMR EA licensees in the *2005 Recon Order*, i.e., the expiration of each licensee's current auction license term. See *2005 Recon Order*, ¶26 & App. B, new rule §90.685(e).

⁵The Nextel Opposition, p.6, disingenuously attacks MRA for failure to analyze whether MRA holds more site-based spectrum than do typical non-EA licensees. Such an analysis is unnecessary and immaterial. From the material already in the record in this proceeding, excerpts of which are contained in Exhibit C, the Commission knows that MRA holds as much spectrum as do the similarly situated EA licensees. From the absence of objections from any other non-EA licensees, the Commission can deduce that MRA uniquely holds a large enough mass of spectrum compared to those other non-EA licensees.

Nextel misconstrues the Commission's rebanding rules and distorts MRA's business plans. The Commission's rules unambiguously prohibit long-term non-cellular operation in the ESMR Band, but allow transitional non-cellular operation, so as to ensure the timely relocation out of the lower portion of the 800 MHz band. And MRA did not say it would wait until 2010 or 2011 to convert to cellular architecture – MRA simply asked for the same deadline already established for the similarly-situated not-yet-ESMR EA licensees.

A. The Rules Permit Transitional Non-Cellular Operation

Even a cursory review of the evolution of the rebanding rules refutes Nextel's contention. In its *Report and Order*, *Fifth Report and Order*, *Fourth Memorandum Opinion and Order*, and *Order* herein, 19 FCC Rcd. 14969, 15241 (2004) ("*Rebanding Decision*"), the Commission created a new Section 90.614 of the rules, reading in relevant part as follows:

(a) 800 MHz cellular systems – as defined in §90.7 – are prohibited from operating on channels 1-550 in non-border areas.

(b) 800 MHz cellular systems – as defined in §90.7 – are permitted to operate on channels 551-830 in non-border areas.

Nothing in that text prohibited a licensee otherwise eligible to relocate into channels 551-830 from operating a non-cellular system on those channels. Rather, the Commission's notion was to limit eligibility for those channels to entities that would be transitioning to cellular (if not already cellular) in the near future. Nextel was thus, for example, entitled to continue operating its entire Puerto Rico system in the same non-cellular fashion as Nextel was operating that system on November 22, 2004, without forfeiting all of its Puerto Rico 800 MHz licenses.

Subsequently, the Commission changed its mind and decided to totally prohibit all non-cellular operations in the ESMR Band, and, in the *Supplemental Order and Order on Reconsideration*

herein, 19 FCC Rcd. 25120, 25166 (2004) (“*Supplemental Order*”), the Commission changed the wording of Section 90.614 to expressly do so, the revised rule reading as follows:

(a) 800 MHz cellular systems – as defined in §90.7 – are prohibited from operating on channels 1-550 in non-border areas.

(b) Only ESMR systems – as defined in §90.7 – are permitted to operate on channels 551-830 in non-border areas.

The above-quoted wording “Only ESMR systems . . . are permitted . . .”, was the first prohibition on transitional non-cellular operation in the ESMR Band. Significantly, that the Commission adopted and issued this text demonstrates the Commission knows how to draft the language to prohibit even transitional non-cellular operations, if that is what the Commission intends.

After further consideration, the Commission decided that the paramount goal of the proceeding is to prevent unacceptable interference to Public Safety, and the best way to do that is to facilitate the expeditious relocation of non-Public Safety entities out of the new NPSPAC Band at 851-854 MHz and out of the new interleaved band, 854-860 MHz, where only Public Safety is allowed to apply for new licenses for three years post-rebanding. The Commission decided the long-term goal of separating cellular architecture SMR systems from non-cellular architecture SMR systems would have to take a temporary back seat, where it collided with the primary goal of protecting Public Safety.

Thus, in the *2005 Recon Order, supra*, 20 FCC Rcd. at 16088, the Commission again revised Section 90.614 to read as follows:

(a) 800 MHz high density cellular systems – as defined in §90.7 – are prohibited from operating on channels 1-550 in non-border areas.

(b) 800 MHz high density cellular systems – as defined in §90.7 – are permitted to operate on channels 551-830 in non-border areas.

Note the changes, both from “800 MHz cellular” in the earlier rule versions, to “800 MHz high density

cellular” in the last version, and, more important, the deletion of the word “Only” in the last version.

In the *2005 Recon Order*, *id.* at p.16100, the Commission also added a new Section 90.685(e), requiring all EA licensees in the new ESMR Band to have converted their operations entirely to cellular architecture by the end of their current auction license term. Since only EA licensees were permitted to be in that band in the first place, this new §90.685(e) makes channels 551-830 cellular-only once the current license terms expire, but it does not purport to do so immediately.

As discussed in the next section, the Commission’s rules sunseting any transitional non-cellular operations in the ESMR Band while permitting temporary non-cellular operation as a means to get SMR licensees out of the lower portion of the band more quickly, not only makes sense in the case of the not-yet-ESMR EA licensees, but in the case of MRA as well.

B. MRA Has a Rational ESMR Business Plan

There are two types of disruption when changing a system – to the licensee and to the customers. MRA believes it can handle disruptions to itself; MRA is concerned about disruptions to the customer. The Waiver Request, while designed to have MRA treated identically to the similarly-situated not-yet-ESMR EA licensees, in fact would also minimize customer disruption for MRA as well.

As Nextel notes, changing from non-cellular to cellular architecture is a major undertaking for any licensee. To “go ESMR”, a licensee must convert its licenses into geographic area licenses and then design where it would place its cell sites within its coverage footprint – unlike the situation in a straight relocation of the same architecture to new channels, the change to cellular architecture also means putting base stations in new places!

That, in turn, means zoning issues, negotiation of new site leases, re-design in the inevitable case of a particular new site location not being available, etc. At the same time, the licensee must negotiate

the installation of new T-1 landline connections between each of the new cellular base stations and the cellular switch, which is located in Maryland.⁶ The timing of installation of T-1 lines by landline carriers such as Qwest, AT&T or the former MCI (now Verizon Business) is usually several months, always uncertain, and always out of the control of the SMR licensee. For all these reasons, it generally takes twelve to eighteen months to convert from non-cellular architecture to cellular architecture.⁷

MRA does not have twelve to eighteen months to relocate. A decision in the Court Case is expected to issue shortly, which will resolve the question of where, in the absence of a grant of the instant Waiver Request, MRA would relocate. Once the replacement channels are identified, MRA, which is in Wave One of the rebanding effort, must physically relocate as soon as practicable.⁸ Twelve-to-eighteen months is far longer than MRA has agreed to in its negotiations with Nextel on a Frequency Relocation Agreement (“FRA”), and far longer than the Commission would stand for.

Thus, *ipso facto*, MRA must retune its non-cellular SMR system to replacement frequencies and operate on those replacement frequencies with the same non-cellular equipment (and from the same non-cellular base station locations) it uses today, at least for a transitional period. To do

⁶As with virtually all other non-Nextel, non-Southern Linc cellular SMRs, MRA intends to pay for switch-sharing on the iDen switch operated by ARINC in Maryland.

⁷As MRA has repeatedly noted, this was why MRA could not have prudently converted to ESMR during the pendency of the original rulemaking herein. Not knowing ahead of time *when* the decision would issue, MRA could not take the chance that it would order equipment and T-1 lines and have the decision issued and published in the *Federal Register* before MRA could complete the conversion and initiate cellular operation, thereby leaving MRA prohibited from operating cellular but stuck with having bought the equipment and rented the T-1 lines. Such a scenario would have resulted in bankruptcy.

⁸Although MRA is asking for expedition, MRA is not proposing to delay its relocation out of the 851-854 MHz band pending a ruling on this Waiver Request. MRA acknowledges that it may have to relocate while this Waiver Request remains pending.

otherwise would create a scheduling disaster for the Transition Administrator and the rebanding process.

Also, as MRA has contended consistently, retuning of non-cellular units, especially, as in MRA's case, vehicular units, is necessarily a great disruption to the customers, because each vehicle and driver must be taken out of service while a technician attends to the vehicle. Therefore, MRA does wish to avoid antagonizing customers by putting them through two separate change-overs in short order. However, if MRA can separate the two transitions by a year or eighteen months, MRA can materially ameliorate the adverse effect on the customers.

This is especially so where, as here, the second transition is a change to the system architecture. MRA could distribute new hand-held cellular units to customers during the week or two ahead of the change to cellular, advising the customers not to use these new units until further advised by MRA. When this distribution was completed, and once MRA had tested the new cellular system (*e.g.*, at four a.m. on a Sunday morning), MRA could flash-cut over to the cellular system, telling the customers to start using their hand-held units in lieu of their vehicular units. Then, at a leisurely pace and in a manner to avoid having vehicles waiting in line, all of the now-unused vehicular units could be removed from the vehicles. There would be virtually no down-time for vehicles and their drivers -- much less disruption than a retuning causes.

MRA would implement this plan once it had finished vacating the 851-854 MHz portion of the band. Would it necessarily take until December, 2010 to complete the conversion? It may well not, but, given that MRA would be only one of a number of SMR licensees attempting to convert at the same time, and that there is basically only one manufacturer for this equipment -- Motorola, which will be busy providing new equipment not only for the converting SMRs but also for its many Public Safety

customers, as well as the other variables noted above, all of which will be out of MRA's control, it only makes sense for the *deadline* to be set conservatively, as the Commission already has done.

IV. MRA's Bidding Strategy in the Auctions Is Not Evidence of Anything

One of the most ridiculous and frivolous arguments made by Nextel is that MRA's decision not to bid on Denver EA licenses is somehow evidence of MRA's not really desiring to evolve to cellular architecture. Nextel Opposition, pp.4-5. The Commission should sanction Nextel for propounding such an absurd, bad faith argument.

When the Commission auctioned 800 MHz SMR licenses in the former General Category and Lower 80 bands, the Commission specifically told potential bidders that there would be no forced relocation of incumbents, and that incumbents could use their licenses for cellular architecture the same as auction licensees so long as the effect of such operation maintained the 22 dBu contour of each incumbent channel within its pre-existing authorized 22 dBu contour.⁹ Reasonably relying on the Commission's own words, MRA rationally devised a bidding strategy to acquire EA licenses in geographic areas where MRA was considering expansion but where MRA did not already hold a large mass of incumbent spectrum. Indeed, Nextel itself eschewed the acquisition of many EA licenses in

⁹*See Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, PR Docket No. 93-144, *Second Report and Order*, 12 FCC Rcd. 19079, 19105 (1997) (emphasis added):

[Incumbent] licensees . . . will be able to make similar modifications within their 22 dBu signal strength interference contour. Licensees that do not desire to make modifications may also continue to operate with their existing systems. We find that this approach will not only enable incumbents to fill in "dead spots" in coverage *or to reconfigure their systems to increase capacity*, but will allow for some incremental [footprint] expansion as well.

Manifestly, MRA's 22 dBu contours are significantly larger than the 40 dBu contours shown in the maps attached to Exhibit A hereto. At the 22 dBu contour level, each MRA channel at its four main sites covers 100% of the County of Denver, as well as areas beyond that county.

areas where Nextel's pre-existing holdings of site-based spectrum allowed it to operate cellular architecture using site-based licenses.

Thus, to say that MRA or any site-based licensee would have bid on the same market where it already held a huge amount of site-based spectrum if it intended to evolve to cellular architecture, or that the failure to so bid is "evidence" of an intent never to convert to cellular architecture, is ridiculous on its face.

CONCLUSION

MRA is virtually identically situated to the various not-yet-ESMR EA licensees that were afforded partial relief by the *2005 Recon Order*, and should be treated the same as those similarly situated licensees are treated under that decision. MRA has the desire and capacity to convert to high-density cellular architecture, although it would not be able to do so in the very short remaining time frame within which it must relocate out of the lower portion of the band. MRA's Waiver Request is not repetitive, because until the Commission afforded partial relief to the not-yet-ESMR EA licensees, MRA hardly could have requested to have the same treatment as they are now receiving. MRA filed the Waiver Request less than a month after publication of the *2005 Recon Order* in the *Federal Register*.

The Commission should reject Nextel's false character attacks against MRA and ignore Nextel's intentional false statements of fact (such as the intentional false statement that MRA's site-based licenses do not cover the City and County of Denver). The Commission should find that MRA

has met the standard for grant of a waiver as set forth in Section 1.925 of the Rules, and grant the Waiver Request.

Respectfully submitted,
MOBILE RELAY ASSOCIATES

By: 
David J. Kaufman

February 10, 2006

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Mobile Relay Associates
Reply to Opposition of
Sprint Nextel Corporation to
Petition for Partial Waiver of
Rebanding Rules
February 10, 2006

EXHIBIT A

**COPY OF DECLARATION OF
MARK J. ABRAMS DATED DECEMBER 6, 2004
(INCLUDING ATTACHMENTS THERETO);
ORIGINALLY FILED AS ATTACHMENT TO
DECEMBER 7, 2004 REPLY TO OPPOSITION
TO REQUEST FOR STAY**

DECLARATION OF MARK J. ABRAMS


Mark J. Abrams, under penalty of perjury, hereby states as follows:

1. I am a general partner in Mobile Relay Associates ("MRA"), and am in charge of its communications regulatory affairs. I have read the "Opposition of Nextel Communications, Inc. to Motion for Partial Stay" ("Nextel Opposition") and the "Opposition to Motion for Partial Stay" filed by APCO, *et al.* ("APCO Opposition"), as well as the joint "Reply to Oppositions to Motion for Partial Stay of Decision Pending Appellate Review" to which this declaration is being appended ("Reply"). All facts pertaining to MRA set forth in the Reply are true and correct.

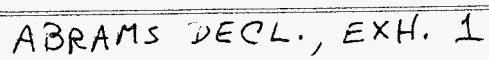
2. Without limiting the foregoing, Nextel's implication that MRA's 800 MHz system does not cover the core population of Denver, Colorado is absolutely false. Attached hereto as Exhibits 1-7 are reliable service area coverage contour maps for MRA's various 800 MHz transmitters, showing that MRA does indeed cover the City of Denver, which is precisely where MRA markets its services.

3. In addition, I hereby affirm that MRA relied upon this Commission's rules and *Federal Register* publications in making its decisions concerning what auction spectrum to bid upon, and which licenses to acquire in the secondary markets. MRA specifically did not acquire 800 MHz auction licenses for the Denver EA, because MRA already had a significant site-based spectrum position there, and the Commission told MRA that its site-based spectrum would not be secondary to co-channel auction spectrum, or subject to more limitations in potential usage or flexibility of use. Instead, MRA concentrated on acquiring 800 MHz spectrum outside the Denver EA, and acquired 900 MHz auction spectrum in Denver.

Executed December 6, 2004.

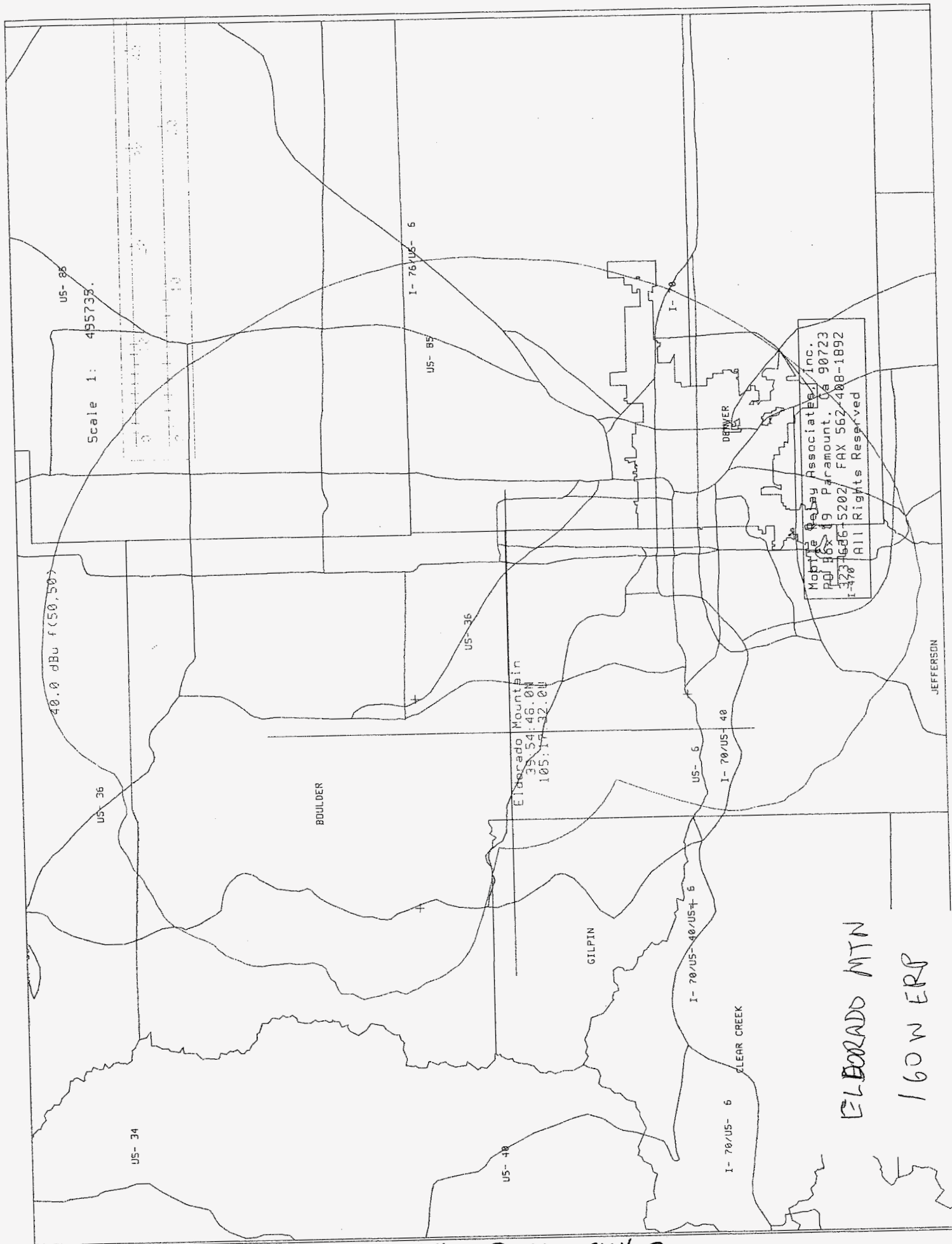


Mark J. Abrams



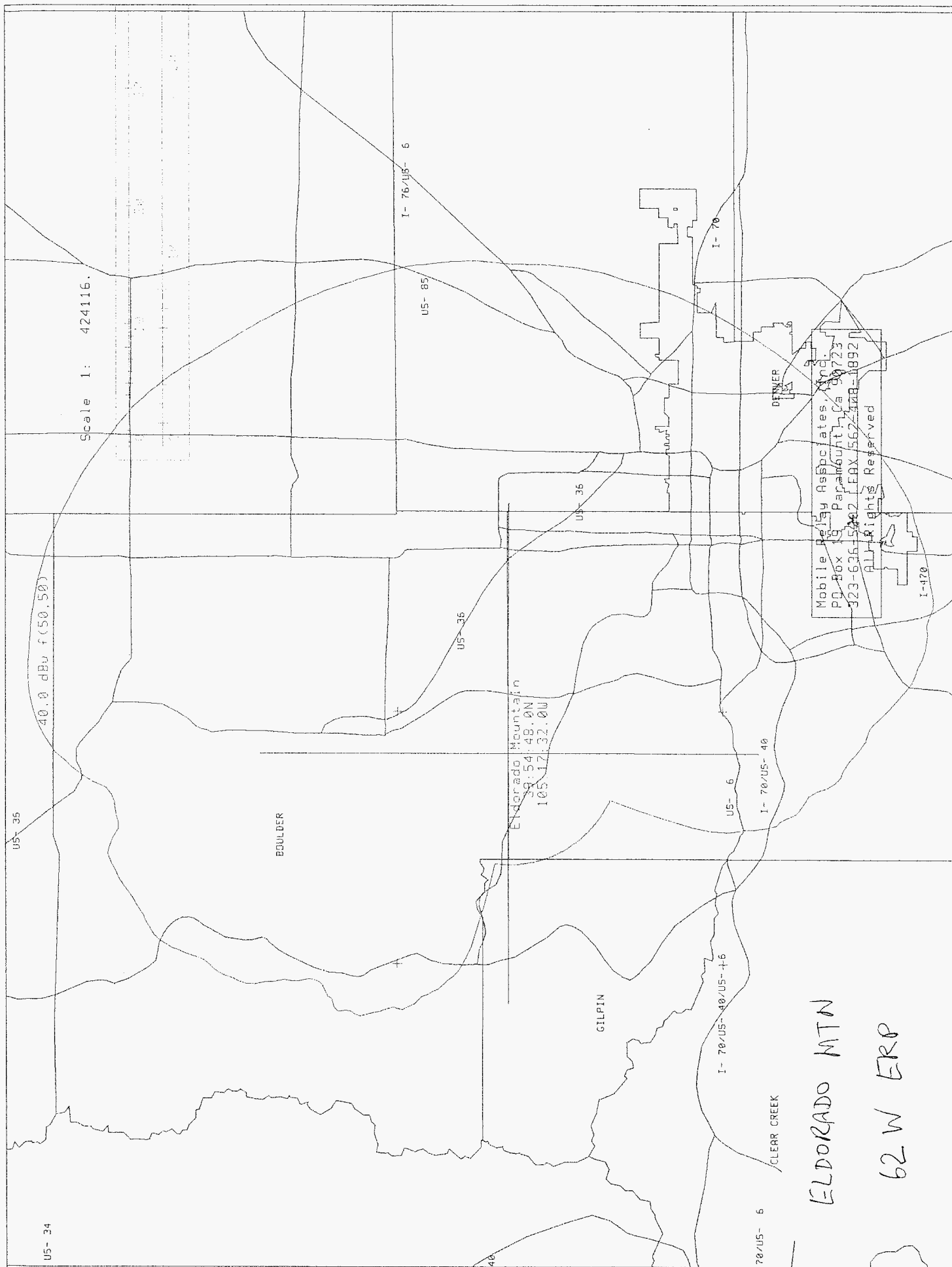
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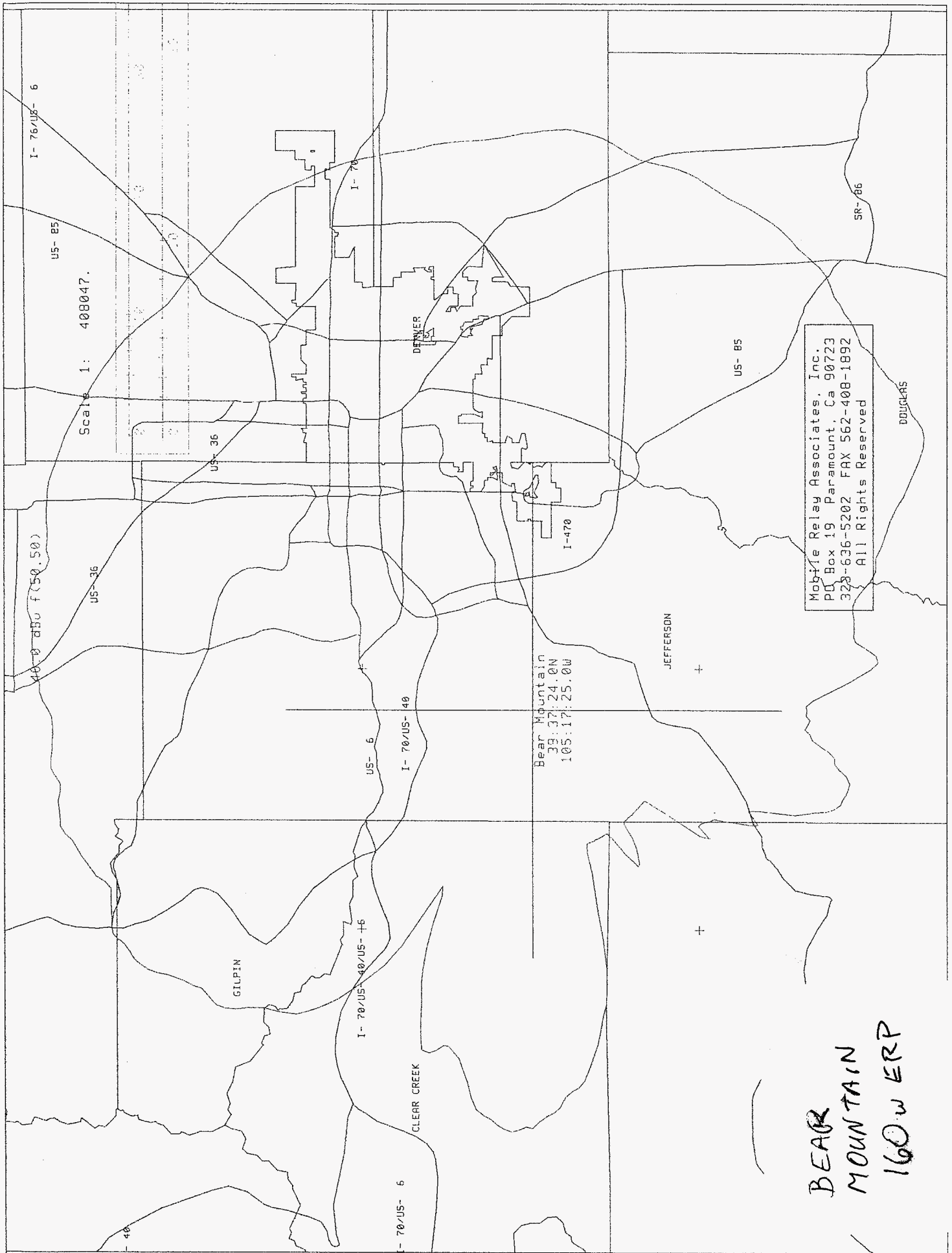
ABRAMS DECL., EXH. 2

ELBORADO MTN
160W ERP

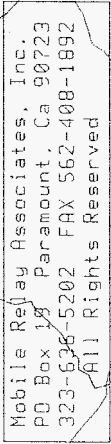


ABRAMS DECL., EXH. 3

ELDORADO MTN
62 W ERP



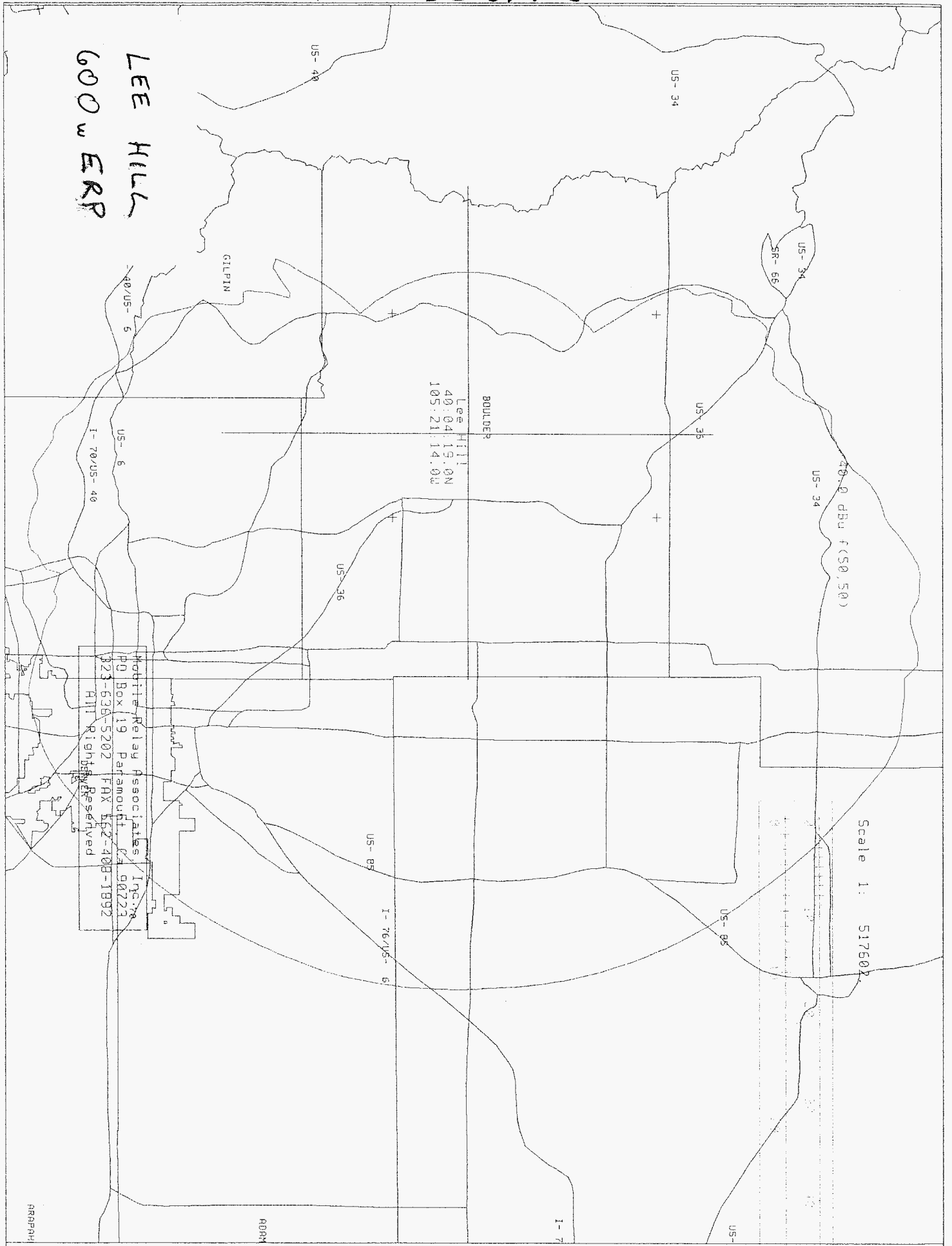
ABRAMS DECL., EXH. 5



BEAR MTN
80W ERP

ABRAMS DECL, EXH. 7

LEE HILL
600 W ERP



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Mobile Relay Associates
Reply to Opposition of
Sprint Nextel Corporation to
Petition for Partial Waiver of
Rebanding Rules
February 10, 2006

EXHIBIT B

DECLARATION OF MARK J. ABRAMS DATED FEBRUARY 10, 2006

DECLARATION OF MARK J. ABRAMS

I, Mark J. Abrams, hereby state, under penalty of perjury, as follows:

I am, and have been at all relevant times, the responsible principal of Mobile Relay Associates ("Mobile Relay") with respect to the prosecution of Mobile Relay's FCC applications. I am the chief engineering officer for Mobile Relay, and have over twenty-five years of experience in the design, implementation and operation of land mobile radio systems.

This statement is submitted in support of the foregoing "Reply to Opposition of Sprint Nextel Corporation to Petition for Partial Waiver of Rebanding Rules" ("Reply"). All facts set forth in the foregoing Reply and not subject to official notice are true and correct.

Executed this 10th day of February, 2006.



Mark J. Abrams

Mobile Relay Associates
Reply to Opposition of
Sprint Nextel Corporation to
Petition for Partial Waiver of
Rebanding Rules
February 10, 2006

EXHIBIT C

EXCERPTS FROM:

1) DECEMBER 2, 2004 COMMENTS OF COASTAL SMR NETWORK, LLC.

EXCERPT CONSISTS OF EXHIBIT A TO THOSE COMMENTS. FOLLOWING EXCERPT IS SUMMARY PAGE COMPILED BY MRA, COMBINING COASTAL'S EA-BASED AND SITE-BASED SPECTRUM HOLDINGS ONTO ONE LIST. EXCERPT DEMONSTRATES THAT IN ELEVEN OF COASTAL'S FIFTEEN EAs, INCLUDING CHARLESTON, SC, RALEIGH/DURHAM, NC, GREENSBORO, NC, ROANOKE, VA AND WILMINGTON, NC, COASTAL HAS LESS SPECTRUM THAN DOES MRA IN THE DENVER EA.

2) DECEMBER 14, 2004 NOTICE OF *EX PARTE* PRESENTATION, FILED BY AIRPEAK COMMUNICATIONS, LLC and AIRTEL WIRELESS SERVICES, LLC.

EXCERPT CONSISTS OF ATTACHMENT A TO THAT NOTICE. EXCERPT DEMONSTRATES THAT IN SIX AIRPEAK/AIRTEL EAs, INCLUDING SAN FRANCISCO, FRESNO AND PORTLAND, OREGON, AIRPEAK/AIRTEL HAVE LESS SPECTRUM THAN DOES MRA IN THE DENVER EA.

3) SEPTEMBER 23, 2002 COMMENTS OF PREFERRED COMMUNICATION SYSTEMS, INC. EXCERPT IS PAGE 8 OF THOSE COMMENTS, CONTAINING A TABLE SHOWING PREFERRED EA SPECTRUM HOLDINGS. THE TABLE SHOWS PREFERRED WITH ONLY 25 CHANNELS IN THE SAN FRANCISCO EA, LESS THAN MRA HOLDS IN THE DENVER EA.

Mobile Relay Associates
Reply to Opposition of
Sprint Nextel Corporation to
Petition for Partial Waiver of
Rebanding Rules
February 10, 2006

EXHIBIT C, SECTION 1

COASTAL SMR NETWORK, LLC

Mobile Relay Associates
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February 10, 2006

COASTAL COMBINED EA/SITE-BASED SPECTRUM HOLDINGS

<u>EA No.</u>	<u>EA Name</u>	<u>EA Chan.</u>	<u>S-B Chan.</u>	<u>Minus Dupl.</u>	<u>Total Chan.</u>
14	Salisbury, MD	35	4	NA	39
15	Richmond, VA	40	5	NA	45
16	Staunton, VA	10	0	NA	10
17	Roanoke, VA	10	0	NA	10
18	Greensboro, NC	15	0	NA	15
19	Raleigh/Dur.,NC	15	1	NA	16
20	Norfolk, VA	35	62	11	86
21	Greenville, NC	35	23	5	53
22	Fayetteville, NC	30	0	NA	30
23	Charlotte, NC	0	4	NA	4
24	Columbia, SC	0	5	NA	5
25	Wilmington, NC	25	10	4	31
26	Charleston, SC	10	14	NA	24
28	Savannah, GA	0	6	NA	6
41	Greenville, SC	0	4	NA	4

**Summary of EA & License Holdings
for...**

Commercial Radio Service Corp.

**A.R.C., Inc.
dba Antenna Rentals Corp.**

Coastal SMR Network, LLC

October 2004

EA LICENSE SUMMARY:

Call Sign	EA	EA Description	Block	Channels	# Chnls	Date of Auction	\$ Pd at Auction	2000 POPs
WPRV491	EA 014	Salisbury, MD-DE-VA	F	853.5125-854.1125	25	9/6/2000	\$ 20,150	363,970
WPSA396	EA 014	Salisbury, MD-DE-VA	R	856,857,858,859,860.5875	5	12/7/2000	\$ 1,235	363,970
WPSA401	EA 014	Salisbury, MD-DE-VA	T	856,857,858,859,860.6375	5	12/7/2000	\$ 975	363,970
WPRV489	EA 015	Richmond-Petersburg, VA	E	852.2625-852.8625	25	9/6/2000	\$ 108,550	1,446,123
WPSA383	EA 015	Richmond-Petersburg, VA	H	856,857,858,859,860.0375	5	12/7/2000	\$ 10,400	1,446,123
WPSA393	EA 015	Richmond-Petersburg, VA	Q	856,857,858,859,860.5625	5	12/7/2000	\$ 7,150	1,446,123
WPSA397	EA 015	Richmond-Petersburg, VA	S	856,857,858,859,860.6125	5	12/7/2000	\$ 14,950	1,446,123
WPSA386	EA 016	Staunton, VA-WV	K	856,857,858,859,860.1125	5	12/7/2000	\$ 8,450	334,087
WPSA394	EA 016	Staunton, VA-WV	Q	856,857,858,859,860.5625	5	12/7/2000	\$ 5,525	334,087
WPSA387	EA 017	Roanoke, VA-NC-WV	K	856,857,858,859,860.1125	5	12/7/2000	\$ 5,070	826,284
WPSA390	EA 017	Roanoke, VA-NC-WV	L	856,857,858,859,860.1375	5	12/7/2000	\$ 8,450	826,284
WPSA395	EA 018	Greensboro-Winston Salem-High Point, NC-VA	Q	856,857,858,859,860.5625	5	12/7/2000	\$ 20,150	1,854,853
WPSA398	EA 018	Greensboro-Winston Salem-High Point, NC-VA	S	856,857,858,859,860.6125	5	12/7/2000	\$ 16,900	1,854,853
WPSA403	EA 018	Greensboro-Winston Salem-High Point, NC-VA	V	856,857,858,859,860.6875	5	12/7/2000	\$ 8,450	1,854,853
WPSA388	EA 019	Raleigh-Durham-Chapel Hill, NC	K	856,857,858,859,860.1125	5	12/7/2000	\$ 22,750	1,831,510
WPSA391	EA 019	Raleigh-Durham-Chapel Hill, NC	L	856,857,858,859,860.1375	5	12/7/2000	\$ 11,050	1,831,510
WPSA402	EA 019	Raleigh-Durham-Chapel Hill, NC	U	856,857,858,859,860.6625	5	12/7/2000	\$ 38,350	1,831,510
WPRV490	EA 020	Norfolk-Virginia Beach-Newport	EE	852.8875-853.4875	25	9/6/2000	\$ 208,000	1,722,764
WPSA385	EA 020	Norfolk-Virginia Beach-Newport News, VA-NC	I	856,857,858,859,860.0625	5	12/7/2000	\$ 31,200	1,722,764
WPSA399	EA 020	Norfolk-Virginia Beach-Newport News, VA-NC	S	856,857,858,859,860.6125	5	12/7/2000	\$ 1,040	1,722,764
WPRV492	EA 021	Greenville, NC	FF	854.1375-854.7375	25	9/6/2000	\$ 61,750	823,517
WPSA389	EA 021	Greenville, NC	K	856,857,858,859,860.1125	5	12/7/2000	\$ 29,900	823,517
WPRV493	EA 022	Fayetteville, NC	FF	854.1375-854.7375	25	9/6/2000	\$ 53,300	528,224
WPSA384	EA 022	Fayetteville, NC	H	856,857,858,859,860.0375	5	12/7/2000	\$ 37,050	528,224
WPRV494	EA 025	Wilmington, NC-SC	FF	854.1375-854.7375	25	9/6/2000	\$ 35,750	878,267
WPSA392	EA 026	Charleston-North Charleston, SC	L	856,857,858,859,860.1375	5	12/7/2000	\$ 3,900	587,297
WPSA400	EA 026	Charleston-North Charleston, SC	S	856,857,858,859,860.6125	5	12/7/2000	\$ 20,800	587,297
					255		\$ 791,245	

SITE-BASED LICENSE SUMMARY:

Call Sign	EA	EA Description	Channels	# Chnls
WPGC449	14	BELLE HAVEN, VA	851.0875	1
WPGD653	14	BELLE HAVEN, VA	854.4375	1
WPGJ612	14	BELLE HAVEN, VA	851.1875	1
WPGJ613	14	BELLE HAVEN, VA	851.3375	1
WPXR374	15	RICHMOND, VA	856,857,858,859.3125	4
WPGD465	19	HENDERSON, NC	853.2875	1
WNXS388	20	VIRGINIA BEACH, VA	855,856,857,858,859,860.6125	6
WPAI798	20	VIRGINIA BEACH, VA	856,857,858,859,860.6875	5
WPEA277	20	SMITHFIELD, VA	851.1875	1
WPFC790	20	VIRGINIA BEACH, VA	856,857,858,859,860.0625	5
WPFE527	20	HAMPTON, VA	854.3625	1
WPFU496	20	FRANKLIN, VA	851.1125	1
WPFV465	20	AHOSKIE, NC	853.5625	1
WPFV467	20	COINJOCK, NC	854.7375	1
WPFV468	20	AHOSKIE, NC	853.6625	1
WPFV649	20	FRANKLIN, VA	853.4875	1
WPFV704	20	HAMPTON, VA	851.1625	1
WPFV705	20	FRANKLIN, VA	854.4625	1
WPFV707	20	ELIZABETH CITY, NC	854.5125	1
WPFV709	20	ELIZABETH CITY, NC	853.2625	1
WPFV852	20	ELIZABETH CITY, NC	854.0375	1
WPFV924	20	COINJOCK, NC	852.2875	1
WPFV929	20	COINJOCK, NC	853.3875	1
WPFV961	20	COINJOCK, NC	851.5125	1
WPFV962	20	WINFALL, NC	853.3625	1
WPGC357	20	AHOSKIE, NC	851.8875	1
WPGC739	20	NEWPORT NEWS, VA	855.7625;858,859.7875	3
WPLP771	20	EDENTON, NC	856,857,858,859,860.3125	5
WPMJ841	20	NEWPORT NEWS, VA	851,854.5125;852.2875;852.5625;853.0125;853.3875;853.6625; 853.8375;854.8125;855.0625;856,857.9125	12
WPMN633	20	VIRGINIA BEACH, VA	856,857,858,859.7875	4
WPNP446	20	CHESAPEAKE, VA	856,857,858,859.7875	4
WPEX902	21	BUXTON, NC	856,857,858,859,860.0125	5
WPFF766	21	WINDSOR, NC	852.5625	1
WPFF768	21	WINDSOR, NC	853.0125	1
WPHQ295	21	NEW BERN, NC	852.2625	1
WPLP933	21	WANCHESE, NC	851.2875;851.7125;852.0125;852.4375;852.9125;853.2375;853.5875; 853,859.8125;854.1625	10
WPTH683	21	KITTY HAWK, NC	851.0625;854.7125, 856,857,858.1125	5
WPGD453	25	GEORGETOWN, SC	854.2125	1
WPGD455	25	FLORENCE, SC	853.4125	1
WPGD460	25	FLORENCE, SC	852.3625	1
WPGD461	25	FLORENCE, SC	852.4875	1

SITE-BASED LICENSE SUMMARY (Cont.):

Call Sign	EA	EA Description	Channels	# Chnls
WPGD463	25	GEORGETOWN, SC	854.2625	1
WPGD543	25	GEORGETOWN, SC	854.3875	1
WPGD656	25	FLORENCE, SC	853.3625	1
WPGD848	25	FLORENCE, SC	853.6375	1
WPGG291	25	GEORGETOWN, SC	854.3625	1
WPGJ654	25	GEORGETOWN, SC	851.7625	1
WPGD443	26	CHARLESTON, SC	854.4125	1
WPGD444	26	CHARLESTON, SC	854.5125	1
WPGD445	26	MOUNT PLEASANT, SC	854.5875	1
WPGD451	26	MOUNT PLEASANT, SC	854.5625	1
WPGD452	26	CHARLESTON, SC	851.2125	1
WPGD454	26	FROGMORE, SC	854.3625	1
WPGD456	26	MOUNT PLEASANT, SC	854.1375	1
WPGD464	26	FROGMORE, SC	854.3875	1
WPGD466	26	CHARLESTON, SC	854.1625	1
WPGD475	26	MOUNT PLEASANT, SC	854.5375	1
WPGD542	26	FROGMORE, SC	854.2125	1
WPGD544	26	CHARLESTON, SC	854.1875	1
WPGD545	26	FROGMORE, SC	854.2625	1
WPGD845	26	MOUNT PLEASANT, SC	853.4625	1
WPGD541	23	CLOVER, SC	852.8625	1
WPGY441	23	CHARLOTTE, NC	851.6375	1
WPGY469	23	CHARLOTTE, NC	852.1625	1
WPGY470	23	CHARLOTTE, NC	852.3875	1
WPFZ979	24	ORANGEBURG, SC	852.1875	1
WPFZ980	24	ORANGEBURG, SC	854.0625	1
WPGD602	24	COLUMBIA, SC	852.2625	1
WPGD623	24	ORANGEBURG, SC	854.1125	1
WPGD640	24	ORANGEBURG, SC	852.5875	1
WPHE598	28	STATESBORO, GA	853.3375	1
WPHE631	28	SAVANNAH, GA	852.5625	1
WPHE638	28	SAVANNAH, GA	853.3375	1
WPHE642	28	STATESBORO, GA	852.5625	1
WPHE646	28	STATESBORO, GA	852.9375	1
WPHE654	28	SAVANNAH, GA	853.8375	1
WPHE673	28	SAVANNAH, GA	852.9375	1
WPHE674	28	SAVANNAH, GA	853.0125	1
WPFZ978	41	GREENWOOD, SC	853.4875	1
WPGD457	41	SIX MILE, SC	851.2125	1
WPGD477	41	SIX MILE, SC	853.5125	1
WPGD627	41	GREENWOOD, SC	854.0125	1

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EXHIBIT C, SECTION 2

AIRPEAK/AIRTEL

COMPARATIVE SPECTRUM POSITIONS*

		Nextel			Airtel/ AIRPEAK	
Market	Market Name	800	900	1.9	800	Nextel Total
BEA144	Billings, MT-WY	14.00	4.25	10.00	4.20	24.05
BEA145	Great Falls, MT	14.00	4.25	10.00	4.60	23.65
BEA146	Missoula, MT	14.00	4.25	10.00	3.75	24.50
BEA094	Springfield, MO	14.00	3.25	10.00	2.50	24.75
BEA136	Hobbs, NM-TX	14.00	4.00	10.00	1.25	26.75
BEA138	Amarillo, TX-NM	14.00	4.00	10.00	2.50	25.50
BEA139	Santa Fe, NM	14.00	4.25	10.00	5.00	23.25
BEA147	Spokane, WA-ID	14.00	4.25	10.00	3.75	24.50
BEA148	Idaho Falls, ID-WY	14.00	3.00	10.00	2.50	24.50
BEA151	Reno, NV-CA	14.00	4.50	10.00	6.45	22.05
BEA153**	Las Vegas, NV-AZ-UT	14.00	3.25	10.00	3.70	23.55
BEA154	Flagstaff, AZ-UT	14.00	3.25	10.00	2.50	24.75
BEA155	Farmington, NM-CO	14.00	4.25	10.00	1.25	27.00
BEA156	Albuquerque, NM-AZ	14.00	4.25	10.00	2.50	25.75
BEA157	El Paso, TX-NM	14.00	4.25	10.00	3.75	24.50
BEA162**	Fresno, CA	14.00	4.50	10.00	0.25	28.25
BEA163**	San Francisco-Oakland-San Jose, CA	14.00	4.50	10.00	0.25	28.25
BEA164**	Sacramento-Yolo, CA	14.00	4.50	10.00	3.30	25.20
BEA165	Redding, CA-OR	14.00	4.50	10.00	0.30	28.20
BEA166	Eugene-Springfield, OR-CA	14.00	4.50	10.00	3.05	25.45
BEA167**	Portland-Salem, OR-WA	14.00	4.50	10.00	0.75	27.75
BEA168	Pendleton, OR-WA	14.00	4.25	10.00	2.75	25.50
BEA169	Richland-Kennewick-Pasco, WA	14.00	4.25	10.00	3.75	24.50
BEA171	Anchorage, AK	14.00	4.75	10.00	5.00	23.75

*In MHz
** Markets with populations of more than 1,000,000.

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EXHIBIT C, SECTION 3

PREFERRED COMMUNICATION SYSTEMS, INC.

The Participants in General Category Auction, other than Nextel, spent a total of \$87.9 million. It should be noted that the Consensus Proposal effectively creates a game of spectrum musical chairs in which the General Category EA Licensees other than Nextel are the last to sit down. Based upon the exchange in the Consensus Proposal between General Category EA channels and NPSPAC channels and the somewhat more diverse ownership of General Category EA licenses, Preferred would submit that they should be the first to find a seat.

III. Preferred Communication Systems, Inc. EA licensee Holdings

Preferred participated in the General Category Auction, spending \$31.6 million. The following is a list of the EA licenses with corresponding number of channels and Pops Preferred won in this auction.

Channels	Market Name	Population
100	Washington-Baltimore, DC-MD-VA	7,454,633
100	Richmond-Petersburg, VA	1,247,627
150	Roanoke, VA-NC-WV	760,378
150	Staunton, VA-WV	301,626
75	Charleston, WV-KY-OH	1,196,043
75	Fresno, CA	1,168,970
75	Sacramento-Yolo, CA	1,935,487
25	San Francisco-Oakland-San Jose	8,033,134
75	Redding, CA-OR	307,572
125	Puerto Rico and the U.S. Virgin Island	3,623,846

General Category EA license is not simply a licensee that overlays site-specific general category incumbent licensee that covers the entire EA market. Generally, in each EA license there exists a considerable amount of white space (both in terms of vacant frequencies and geographical area not covered by the site-specific frequencies that are still held by incumbents). For illustration of this point, please refer to coverage maps in attachment A. The

CERTIFICATE OF SERVICE

I, Stephen Denison, a legal assistant at the offices of Brown Nietert & Kaufman, Chartered, hereby certify that I have caused a copy of the foregoing Reply to Opposition of Sprint Nextel Corporation to Petition for Partial Waiver of Rebanding Rules to be sent by both e-mail and first-class mail, postage prepaid, this 10th day of February, 2006, to the following:

Michael Wilhelm, Chief,
Public Safety & Critical Infrastructure Division
Federal Communications Commission
445 12th Street, SW, Room 3-C365
Washington, DC 20554
michael.wilhelm@fcc.gov

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Steve Denison